



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,163	08/17/2001	William Ellis Leslie	RSW920010164US1	4683
30449 7590 01/04/2007 SCHMEISER, OLSEN & WATTS 22 CENTURY HILL DRIVE SUITE 302 LATHAM, NY 12110			EXAMINER CASLER, TRACI	
			ART UNIT 3629	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	09/932,163	LESLIE ET AL.
	Examiner	Art Unit
	Traci L. Casler	3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 October 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,11-16 and 34-48 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-2, 11-16, 34-48 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application
6) Other: _____.

DETAILED ACTION

This action is in response to papers filed on October 13, 2006.

Claims 1-2, 11-12, 14-16, 34-36 have been amended.

Claims 37-48 have been added.

Claims 1-2, 11-16, 34-48 are pending.

Claims 1-2, 11-16, 34-48 are rejected.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-2 and 11-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement as well as new enablement rejections on additional limitations. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

2. Claims 1-2 and 12-17, 30, 34-36 recite the limitations of "deducing a value" of variables, however the disclosure fails to teach how the "deducing" is done. Examples are given when a specific type of variable is used and what those variables indicate. However, there are no specific steps that would allow one skilled in the art to make and/or use the applicants invention to "deduce" the value of a variable. Applicant fails to identify how a variable is even identified and/or know to the user let alone how one would "deduce" a value of this unknown variable.

3. Claims 13, 20 and 25 recite the limitation of "majority-vote" algorithm. Applicants disclosure states using log entries in the majority-vote algorithm in which the log with the greatest number of entries is the majority and that type, however, the applicants disclosure fails to teach how one of ordinary skill in the art at the time of invention would identify what is placed into which category log. The disclosure makes suggestions by way of examples but not specific teaching for one to understand how to determine what action or event would be determined as for example extroversion or introversion.

4. Claims 34-36 and 46-48 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims are directed towards the limitation of a second session being opened, and presenting customized information to the second presentation and monitoring new events to determine a new personality type. The disclosure fails to teach second session. By claiming the second session the claims then become narrower than the specification.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-2, 11-16, 37-45 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 5,987,415 Breese et al; Modeling a Users Emotion and Personality in a computer user interface. Hereinafter referred to as Breese.
7. As to claims 1 and 37 Breese teaches recording user behaviors and deducing a value for a personality/emotion of a user.(C. 11 l. 5-9; C. 12 l. 50-53).
8. deducing at least ONE value from the logged occurrences based on user characteristics(PC. 8 l. 19-23; 25-27; C. 11 l. 58-61)
9. recording the value in a database(C. 10 l. 39-42)
10. customizing presentation of information based on the values(C. 12 l. 62-66; C. 13 l. 31-35).
11. As to claims 2, 11 and 38-39 Breese teaches length of chat/time online(C. 10 l. 1-5 C. 12 l. 10-14).
12. As to claims 12 and 40 Breese teaches deducing the "best value"(C. 16 l. 55-58).
13. As to claims 13 and 41 Breese teaches the use of an algorithm for deducing the value(C. 10 l. 35-39; l. 53-56 C. 12 l. 29-22).
14. As to claims 14 and 42 Breese teaches storing a record of deduced personality value(C. 7 l. 13-16).
15. As to claims 15 and 43 Breese teaches customizing information according to the personality value(C. 13 l. 25-35).

16. As to claims 16 and 44 Breese teaches the method, system taking place over a network server(C. 4 l. 60-61).
17. As to claims 30 and 45 Breese teaches Myer Briggs(C. 8 l. 61-65).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 34-36 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,987,415 Breese et al; Modeling a Users Emotion and Personality in a computer user interface as applied to claims 1-2, 11-16, 37-45 above, and further in view of US Patent 5,848,396 Gerace; Method and Apparatus for Determining Behavior Profile of a Computer User; hereinafter referred to as Gerace.

20. As to claims 34-36 and 46-48 Breese teaches determining a value of a personality/emotion based on users reactions to a customized presentation (C. 7 l. 35-

40 C. 15 I. 42-45). Breese fails to teach the identification of the end of a users internet session. However, Gerace teaches "After" multiple session information has been obtained making inferences from the recorded activity(C. 4 I. 15-18). It would have been obvious to one skilled in the art at the time of invention to combine the teachings of Gerace with Breese so that they program has a complete log of information required and/or needed to appropriately identify the users personality type.

Response to Arguments

21. Applicant's arguments filed October 13, 2006 regarding the prior art rejections have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

22. Applicants arguments regarding the enablement rejections have been fully considered but they are not considered persuasive.

23. Applictant argues the deducing of a value is disclosed in several sections. The sections in which the applicant identifies the supposed teachings is limited to a single example for each personality type. The sections of the disclosure does not identify things such as how long one must dwell on a topic before moving onto a a new page, what is considered "relatively large or short" for posting. For thinking feeling, what other

types of responses are used what someone doesn't ask if it is convenient, how does one know what type of information to be looking for that is "Implying" a certain trait.

24. As to applicants argument regarding the use of "majority-vote" algorithm for deducing a value, the sections of the specification are directed towards the use of a "sliding window" algorithm, not a "majority-vote" used in the deducing.

Conclusion

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

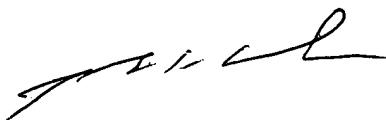
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Casler(formerly Smith) whose telephone

number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAC



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNICAL DIVISION 8300